

BEFORE THE  
FEDERAL COMMUNICATIONS COMMISSION  
WASHINGTON, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

In the Matter of

Service Rules for the 746-764 and  
776-794 MHz Bands, and  
Revisions to Part 27 of the  
Commission's Rules

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WT Docket No. 99-168

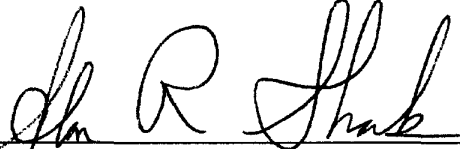
To: The Commission

REPLY COMMENTS OF THE  
AMERICAN MOBILE TELECOMMUNICATIONS ASSOCIATION, INC.

Respectfully submitted,

AMERICAN MOBILE TELECOMMUNICATIONS  
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The American Mobile Telecommunications Association, Inc. ("AMTA" or "Association"), in accordance with Section 1.415 of the Federal Communications Commission ("FCC" or "Commission") Rules and Regulations, respectfully submits its Reply Comments with respect to the Notice of Proposed Rulemaking in the above-identified proceeding.<sup>1</sup> The Association agrees with those commenters who explained that certain unique characteristics of the 746-764 and 776-794 MHz bands make this spectrum an optimal home for accommodating the urgent needs of the private wireless industry.

**I. THE FCC SHOULD ALLOCATE SPECIALIZED WIRELESS SERVICE SPECTRUM TO MEET THE NEEDS OF THE PRIVATE USER COMMUNITY.**

1. As AMTA explained in its Comments, and as was confirmed by the filings of numerous private users, service providers and equipment suppliers, the private wireless community is facing an acute, growing spectrum shortage.<sup>2</sup> Both the immediate and long-term implications of that fact are contrary to the public interest since inadequate communications inevitably will affect the operation, and thus the financial capabilities, of companies in virtually every segment of the U.S. economy. Although members of this industry may have differing opinions in respect to the size of an appropriate allocation from this band, as well as the optimal division of that allocation between specialized commercial providers versus private internal systems, they are united in their conviction that the needs of this wireless market segment warrant

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<sup>1</sup> Notice of Proposed Rulemaking, WT Docket No. 99-168 (rel. June 3, 1999) ("Notice" or "NPR").

<sup>2</sup> See, e.g., Comments of MRFAC, Inc. ("MRFAC") at pp. 1-2; Personal Communications Industry Association, Inc. ("PCIA") at p. 3; Southern Communications Services, Inc. d/b/a Southern LINC ("Southern") at p. 5; Motorola, Inc. ("Motorola") at pp. 12-13; Intek Global Corp. ("Intek") at p. 2; Industrial Telecommunications Association, Inc. ("ITA") at pp. 12-13; and United Telecom Council ("UTC") at pp. 2-3.

access to some portion of this band. They also are in agreement that the particular spectrum under consideration in this proceeding is optimally suited for private mobile use because of its proximity to existing private bands.<sup>3</sup>

2. Even if the Commission were to concur with those determinations, there are certain constraints on the agency's ability to address the private wireless spectrum requirement in the context of this proceeding. Congress has directed the FCC to "consider the need to allocate spectrum for shared or exclusive use by private wireless services in a timely manner."<sup>4</sup> However, the agency has been instructed by Congress to reallocate this particular spectrum for commercial purposes, thereby seemingly precluding a private internal system allocation, at least as that term is understood today.<sup>5</sup>

3. Absent immediate legislative action to expand the scope of eligible participants, AMTA again suggests that the FCC can address the concerns of the specialized wireless industry and satisfy both congressional directives by allocating spectrum for technically advanced, specialized commercial wireless services that will serve the needs of the private land mobile community. AMTA explained in its comments that the Association's members historically have served precisely those user requirements.<sup>6</sup> Unlike more generously spectrum-endowed licensees offering cellular, PCS and ESMR services, the specialized wireless providers represented by the

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<sup>3</sup> See, e.g., Comments of AMTA at ¶¶ 8-9; ITA at pp. 13-14; Motorola at p. 14-17; PCIA at pp. 3-4; MRFAC at p. 3.

<sup>4</sup> H.Rept. 105-217 at 575 (1997).

<sup>5</sup> See Balanced Budget Act of 1997, Pub.L.No. 105-33, 111 Stat. 251 (1997).

<sup>6</sup> AMTA Comments at ¶¶ 3-7.

Association's membership traditionally have offered a more localized, non-consumer-oriented service designed to serve the needs of the business/industrial/land transportation/local government entities that comprise the specialized operator's natural customer base.

4. This is not to say that all such entities will or should be accommodated on third party systems. Some private users have legitimate reasons for maintaining their own, purely internal operations, irrespective of the availability of commercial options. Others have such specialized requirements that they are ill-suited to a commercial system. However, two decades of experience with 800 MHz, 900 MHz, and 220 MHz specialized commercial service provides compelling evidence that a very substantial percentage of private user needs can be met by third party operators, when those providers have invested in, and the regulatory framework supports the implementation of, high capacity, technically-efficient, feature-rich infrastructure. There is every reason to assume a comparably positive experience would result from the allocation of 6 MHz of paired spectrum in this band for the provision of specialized commercial wireless service, as recommended by AMTA in its Comments.<sup>7</sup>

## **II. REGULATORY FRAMEWORK**

### **A. Flexible Use Policy**

5. As detailed in its comments, the Association believes the instant allocation holds substantial promise as a future home for the specialized commercial wireless industry. Its propagation characteristics are well-suited for mobile wireless communications and its proximity to existing allocations presents significant advantages for equipment development.

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<sup>7</sup> AMTA Comments at ¶ 10.

6. AMTA shares the concern of other commenters that an unbridled regulatory approach that values flexibility over all other public interest considerations could have the contrary effect of “deter[ing] investment in potential licensees, contribut[ing] to widespread interference problems between dissimilar service providers and caus[ing] delay in the provision of new and efficient mobile services for these frequencies.”<sup>8</sup> The Telecommunications Industry Association (“TIA”) cautioned:

Spectrum allocation decisions in the United States must reflect a consensus by the private sector and the government on what services are technically possible, economically sound, spectrally efficient and likely to benefit the public. Decisions on spectrum utilization should not be left to the market alone to decide. Unbridled spectrum flexibility leads to fractured markets, increased equipment costs, delayed research, product development and time to market, and increased potential for interference among users.<sup>9</sup>

7. Regulatory flexibility, however, need not be an all-or-nothing proposition. The flexible regulatory scheme of the Wireless Communications Service (“WCS”) has been viewed with mixed success and has been identified as a causative factor in the comparatively low valuation of WCS licenses and subsequent delays in service deployment.<sup>10</sup> AMTA encourages the Commission to consider carefully the WCS experience before additional valuable spectrum is allocated under comparable provisions. Nonetheless, with sufficient capacity to accommodate a number of important interests, this band may lend itself to a regulatory environment in which

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<sup>8</sup> Comments of Intek Global Corp. at 2-3.

<sup>9</sup> TIA Comments at p. 2 (citing an earlier TIA white paper “TIA Spectrum Management Policy (May 29, 1997)).

<sup>10</sup> Comments of Airtouch Communications, Inc. (“Airtouch”) at n.9. See also Comments of ITA at p.5 and Motorola, Inc. at p. 8.

a variety of compatible services, including the specialized wireless service, are deemed eligible to utilize the spectrum.

**B. Shared Use by Mobile Services and Broadcast Service**

8. Nearly all who commented on the subject disapproved of mixing broadcast and mobile use on this band.<sup>11</sup> Concern focused on the very substantial likelihood of interference between these entirely dissimilar services and the anticipated inability to satisfactorily resolve or minimize the amount of interference without complicated, burdensome, spectrally-inefficient interference protection rules. As highlighted in AMTA's Comments, freedom from destructive interference will be an essential ingredient in attracting potential operators to provide service on and manufacturers to develop equipment for this band.<sup>12</sup> Although it is difficult to estimate the scope of the potential problem at this stage in the proceeding since it is unclear what types of broadcast services are likely to be implemented and under what technical parameters they would operate, maximizing the use of this spectrum will require that the FCC recognize and address the very real technical difficulties inherent in intermingling two vastly different services.

**C. Allocation Characteristics**

9. Various commenters volunteered proposals regarding the amount of spectrum to be assigned per license and the appropriate service area. AMTA's Comments recommended that 6 megahertz paired from this band would be an appropriate amount of spectrum to be assigned

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<sup>11</sup> See comments of Intek at p. 4, Airtouch at p. 12-14, US West at p. 9, MRFAC at p. 3.

<sup>12</sup> AMTA Comments at ¶¶ 18-20.

to the specialized commercial wireless service.<sup>13</sup> Adoption of this proposal would leave an additional 12 megahertz of paired spectrum (24 MHz total) for other services, an amount equal to even the largest non-broadcast allocation suggested in the comments.<sup>14</sup>

10. The Association further recommended that this spectrum be assigned in blocks of .5 megahertz per license per market and that the geographic service area be defined by economic areas (“EA”) acknowledged as closely approximating the coverage area of traditional specialized wireless systems. Other parties concurred with the proposition that the size of licenses to be auctioned, both in terms of amount of spectrum and geographic scope, must be tailored to reflect the needs of the specialized wireless community.<sup>15</sup> As explained in its Comments, AMTA does not view partitioning or disaggregation as a viable remedy for small businesses precluded from participating in auctions directly because of their financial inability to compete for unnecessarily large spectrum blocks or geographic areas.<sup>16</sup>

### **III. BAND MANAGER**

11. A number of entities in addition to AMTA, most notably PCIA and ITA, commented on the FCC’s inquiry into the possible use of a “Band Manager” to manage utilization of this spectrum.<sup>17</sup> Neither AMTA, PCIA nor ITA opposed the concept, but it is evident that there is substantial uncertainty about what role such an entity would play in the Commission’s

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<sup>13</sup> See n.7 *supra*.

<sup>14</sup> Comments of U S WEST, Inc. at p. 4 proposing a nationwide assignment of 24 MHz.

<sup>15</sup> See, e.g., Comments of Motorola at p. 6; and ITA at pp. 6-7;.

<sup>16</sup> AMTA Comments at ¶ 12.

<sup>17</sup> Comments of PCIA at p. 5 and ITA at pp. 7-12.

licensing and spectrum management responsibilities.

12. AMTA believes the Band Manager concept is worthy of careful examination by the Commission and the industry. However, until the potential ingredients of such a license are more fully fleshed out, either as a result of this proceeding or the rule making in which the FCC is addressing implementation of the Balanced Budget of 1997 in which the Band Manager issue also is raised,<sup>18</sup> it is doubtful that interested parties will be able to provide the Commission with additional, meaningful comments on this proposal. AMTA encourages the Commission to work with the wireless industry in exploring how a Band Manager might effectively assist the FCC in the efficient utilization of valuable spectrum.

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<sup>18</sup> Notice of Proposed Rule Making, WT Docket No. 99-87, FCC 99-52 (rel. Mar. 25, 1999).

## **CERTIFICATE OF SERVICE**

I, Linda J. Evans, a secretary in the law office of Lukas, Nace, Gutierrez & Sachs, hereby certify that I have, on this August 13, 1999 caused to be hand delivered a copy of the foregoing

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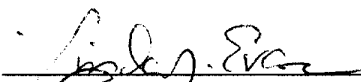
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